

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-107-01088R

Parcel No. 8947-17-380-015

Larry and Sharon Susie,

Appellant,

v.

Sioux City Board of Review,

Appellee.

Introduction

This appeal came on for telephone hearing before the Property Assessment Appeal Board (PAAB) on March 22, 2016. Larry and Sharon Susie were self-represented. Attorney Jack Faith represented the Board of Review.

The Susies are the owner of a residential, one-story home located at 2905 Myrtle Street, Sioux City. The home, built in 1940, has 850 square feet of above-grade finish; a full basement with 192 square feet of average-quality finish; an enclosed porch; and a one-car detached garage that was built in 1955. The site is 0.172 acres.

The property's January 1, 2015, assessment was \$72,100, allocated as \$17,500 in land value and \$54,600 in improvement value. The Susies protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition.

The Susies then appealed to PAAB.

Findings of Fact

The Susies do not believe their property is fairly assessed as compared to several other properties in their assessment jurisdiction. Sharon Susie testified that they only contend the site value is incorrect. To support their inequity claim, the Susies initially listed five properties on their Board of Review petition that they considered as reasonable equity comparables. The following chart is the information from the petition.

Comp#	Address	Assessed Value
Subject	2905 Myrtle St	\$72,100
1	1519 Court St	\$28,500
2	1023 Hill Ave	\$51,082
3	1028 Hill Ave	\$47,700
4	126 1/2 Center St	\$55,000
5	2905 Center St	\$50,200

The Susies did not provide any other information about these properties. Based on a spreadsheet the Board of Review considered in its decision, it would appear that the Susies only reported the improvement value of Comparables 1 and 3. We cannot determine what values are intended to be represented for the other properties.

The following chart summarizes a spreadsheet in the record, which provides additional information on four of the Susies' equity comparables.

Comp#		Year Built	Gross Living Area (GLA)	Assessed Land Value	Assessed Improvement Value	Total Assessed Value
Subject	2905 Myrtle St	1940	850	\$17,500	\$ 54,600	\$ 72,100
1	1519 Court St	1904	1525	\$ 3,400	\$ 28,500	\$ 31,900
2	1023 Hill Ave	1964	1407	\$11,500	\$100,200	\$111,700
3	1028 Hill Ave	1918	912	\$11,700	\$ 47,700	\$ 59,400
4	2905 Center St	1940	832	\$17,500	\$ 56,400	\$ 73,900

Sharon Susie testified that their contention is with the assessment of the site, which they believe is too high, compared to the assessed site values of the comparable properties. However, there is no information in the record about the sites to determine if they are similar in size and utility to the subject site. Regardless, ultimately

it is the total assessed value that must be considered for an equity or market value claim.

Lastly, none of these properties has sold and the Susies did not submit an opinion of market value for the properties, which is necessary to develop an assessment/sales ratio analysis. Moreover, because none of the properties have sold recently, they are not relevant to a market value claim.

The Board of Review relied on six comparable sales in its decision to deny the Susies petition. The following chart is a summary of the sales.

		Gross Living Area	Sale Date	Sale Price	SP/SF
	Subject	850	N/A	N/A	N/A
1	2959 Center St	848	Nov-14	\$84,000	\$99.06
2	3217 Idlewood St	792	Feb-14	\$83,000	\$104.80
3	1645 W 28th St	852	Nov-14	\$84,900	\$99.65
4	1320 W 28th St	864	Apr-14	\$66,500	\$76.97
5	1316 W 28th St	720	Jul-14	\$61,000	\$84.72
6	1627 W Lunah Ave	768	Apr-14	\$70,950	\$92.38

None of the properties was adjusted for differences; however, they are all recent sales that offer similar size to the subject property. The subject's assessed value of \$84.82 per-square-foot is at the low end of the range of sale prices per-square-foot.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also*

Hy-Vee, Inc. v. Employment Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Susies asserts the assessed value of the property's site is higher than those of like properties. To this point, the IOWA REAL PROPERTY APPRAISAL MANUAL 2-2 states:

When appraising real estate, the assessor must consider two separate entities; land, which is the nonwasting portion of the real estate; and improvements, which are the wasting portion subject to various forms of depreciation. Land and improvements are frequently valued separately so that the trends and factors affecting can be studied. However, the final analysis for an improved property must be as a unit.

In examining the evidence presented in this case, our primary concern is with the property's total assessment, encompassing the land and improvements.

The Susies offered five properties for an equity claim, however, none of the properties had sold recently and an opinion of the market value for the properties was not offered. Therefore an assessment/sales ratio analysis could not be developed, which is necessary to support an equity claim. Moreover, we find no evidence the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Susies did not submit any evidence of the property's fair market value, such as an appraisal, a cost analysis, or comparable sales adjusted for differences.

The Board of Review submitted several sales of similar properties. Although they were unadjusted, the information does not suggest the subject property is over assessed.

For the foregoing reasons, the Board finds that the Susies failed to show their property is inequitably assessed or over-assessed.

Order

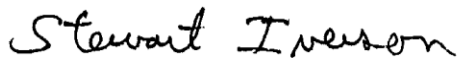
IT IS THEREFORE ORDERED that the Sioux City Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

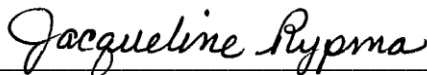
Dated this 27th day of April, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Sharon Susie

Jack Faith